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DISCRIMINATION AGAINST INDIGENOUS PEOPLES

Intellectual property of indigenous peoples: concise report of the Secretary-General

1. By its resolution 1991/31 of 29 August 1991, the Sub-Commission on Prevention of Discrimination and Protection of Minorities requested the Secretary-General to prepare a concise report on the extent to which indigenous peoples can utilize existing international standards and mechanisms for the protection of their intellectual property, drawing attention to any gaps or obstacles and to possible measures for addressing them. It also requested the World Intellectual Property Organization to assist the Working Group on Indigenous Populations in formulating recommendations for the effective protection of the intellectual property of indigenous peoples.

2. The question of the protection of the intellectual property of indigenous peoples has been raised at successive sessions of the Working Group on Indigenous Populations. Recommendations on the issue are contained in the reports of the Working Group on its eighth and ninth sessions (E/CN.4/Sub.2/1990/42, annex I, para. 13 and E/CN.4/Sub.2/1991/40/Rev.1, annex I, para. 15). The draft declaration on the rights of indigenous peoples contains a reference to intellectual property. Draft operative paragraph 19 (see E/CN.4/Sub.2/1992/28) states:

> Indigenous peoples have the right to special measures for protection, as intellectual property, of their traditional cultural manifestations, such as literature, designs, visual and performing arts, medicines and knowledge of the useful properties of fauna and flora.

Furthermore, note can be taken of the discussion of intellectual property and indigenous knowledge at the Technical Conference on Indigenous Peoples and the Environment which took place in Santiago, Chile, from 18 to 22 May 1992 (see E/CN.4/Sub.2/1992/31).

I. INTELLECTUAL PROPERTY

3. Intellectual property is comprised of two main branches: industrial property, chiefly inventions, trademarks and industrial designs; and copyrights, primarily literary, musical, artistic, photographic and audiovisual works. The World Intellectual Property Organization (WIPO) is responsible for the promotion of the protection of intellectual property throughout the world. Article 2 (viii) of the Convention Establishing the World Intellectual Property Organization (1967) refers to intellectual property as rights relating to (i) literary, artistic and scientific works; (ii) performances of performing artists, phonograms, and broadcasts; (iii) inventions in all fields of human endeavour; (iv) scientific discoveries; (v) industrial designs; (vi) trademarks, service marks, and commercial names and designations; (vii) protection against unfair competition; and (viii) all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

4. The principal international legal instruments for the protection of intellectual property are the Paris Convention for the Protection of Industrial Property (1883) and the Berne Convention for the Protection of Literary and Artistic Works (1886). The Paris Convention has been revised several times, most recently by the Stockholm Act (1967); the Berne Convention has also been revised by the Stockholm (1967) and Paris (1971) Acts. As of April 1992, 128 States were members of the World Intellectual Property Organization; as of January 1992, there were 103 States Members of the Paris Union and 90 States Members of the Berne Union.

II. CONCERNS OF INDIGENOUS PEOPLES

5. The intellectual property of indigenous peoples may be usefully divided into three groups: (i) folklore and crafts; (ii) biodiversity; and (iii) indigenous knowledge.

6. Folklore and crafts include various forms of oral literature, music, dance, artistic motifs and designs, crafts such as basketry, beading, quillwork, carving, weaving and painting. Indigenous peoples have expressed concern about the commercial exploitation of their folklore and crafts as well as about the reproduction by outsiders of certain cultural manifestations and objects of religious importance.

7. The biodiversity of the traditional territories of indigenous peoples may also be considered as part of the intellectual property of indigenous peoples requiring protection. Biodiversity refers, inter alia, to plant varieties which have been developed through experiment and cultivation for use as food, medicine or materials for house, boat or other kinds of construction or use.

There is concern that, as the biodiversity, especially of tropical forest regions, is destroyed through environmental mismanagement and population pressures, certain crops or products which can no longer be produced locally will be propagated under licence without recognition of the original cultivators.

8. Indigenous knowledge refers to the knowledge held, evolved and passed on by indigenous peoples about their environment, plants and animals, and the interaction of the two. Many indigenous peoples have developed techniques and skills which allow them to survive and flourish in fragile ecosystems without causing depletion of resources or damage to the environment. The various forms of sustainable development practised by indigenous peoples in forests, mountain and valley areas, drylands, tundra and arctic regions derive from a successful application of technology in agroforestry, terracing, resource management, animal and livestock controls, fish harvesting and in other areas. In particular, many indigenous peoples have a knowledge of plants suitable as medicines and this traditional medicine has been and continues to be a source for Western pharmacology. As noted by the World Commission on Environment and Development: "Tribal and indigenous peoples' lifestyles can offer modern society many lessons in the management of resources in complex forest, mountain and dryland ecosystems." 1/

9. The intellectual property of indigenous peoples, as it is understood in the foregoing paragraphs, may be the subject of a number of legitimate concerns. In the first place, there are certain moral and ethical considerations. As noted, specific designs or motifs of religious importance may be used by outsiders without the consent of indigenous peoples. Respect for indigenous culture requires respect for the symbols of their beliefs and religions.

10. Furthermore, it may also be argued that there is a largely unpaid moral debt to indigenous peoples for their contribution to the arts, sciences, technology and other areas of human knowledge and endeavour. There is little recognition of the contribution of indigenous cultures, through their music, story-telling, art and crafts, to the work of non-indigenous artists and thinkers. Nor is there full and proper recognition of the wide variety of plants developed by indigenous peoples for food, medicines and other purposes. The indigenous peoples of the Americas revolutionized European eating habits and provided varieties of foods which led to dramatic improvements in health and a subsequent rise in population. Plants such as the potato, beans, corn, tomato, coffee, cocoa, manioc, sunflower, squash and yam have all become staples of the modern diet. Furthermore, it is estimated, for example, that a quarter of all prescription drugs are derived from plants and that three quarters of these have been developed from information provided by indigenous peoples. 2/ In addition to medicines, other natural products developed by indigenous peoples such as organic pesticides, new varieties of crops, sweeteners and perfumes are in everyday use.

11. In the second place, there are also pecuniary considerations in connection with the intellectual property of indigenous peoples. While ethically it may be appropriate to recognize the historical debt of modern

society to the knowledge and "discoveries" of indigenous peoples, it may also be appropriate to consider ways of protecting and compensating the present-day knowledge of indigenous peoples. The estimated annual market value of medicines derived from medicinal plants discovered by indigenous peoples is several billion dollars. 3/ As scientists search for new drugs, crop varieties, or marketable plant by-products, the knowledge indigenous peoples possess of the biologically rich regions of the earth is the subject of research and may well, if not adequately protected, be the object of exploitation. As a very minimum, indigenous knowledge has and will continue to give vital clues to scientists, thereby saving them expensive research and development time.

12. Folklore is also subject to commercial exploitation. The World Intellectual Property Organization has observed:

> "The integrity of folklore as a living and functional tradition in developing countries is seriously endangered by the accelerating development of technology especially in the fields of sound and audiovisual recording, broadcasting, cable television or cinematography. Creations of folklore are not only being commercialized by such means on a worldwide scale without any respect for the cultural or economic interests of the communities which produced them; at the same time they are often also distorted in order to better comply with marketing requirements." 4/

III. PROTECTION UNDER EXISTING ARRANGEMENTS

A. Folklore

13. An attempt to protect works of folklore by means of a copyright instrument was undertaken at the international level during the revision of the Berne Convention at Stockholm (1967). As a result, article 15 (4) of the Paris Act (1971) of the Berne Convention contains the following provision:

> "(a) In the case of unpublished works where the identity of the author is unknown, but where there is every ground to presume that he is a national of a country of the Union, it shall be a matter for legislation in that country to designate the competent authority which shall represent the author and shall be entitled to protect and enforce his rights in the countries of the Union."

14. However, copyright has proved an ineffective means of protecting folklore. By their nature, works of folklore evolve collectively and over time, making it difficult to fix their authorship or the moment of creation. Protection of copyright normally extends to the lifetime of the author and a short duration thereafter and does not, therefore, provide a long enough protection for folklore.

15. Another existing legal means for the protection of folklore is through the provisions concerning neighbouring rights, or the rights protecting performers, producers and broadcasters. The Rome Convention of 1961 for the

Protection of Performers, Producers of Phonograms and Broadcasting Organizations and the Convention of 1971 for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms both contain provisions which may be relevant. However, neither of these conventions prevents unauthorized performances of works of folklore or their reproduction.

16. Mention can also be made of national copyright legislation protecting folklore in Algeria, 1973; Bolivia, 1968; Chile, 1970; Côte d'Ivoire, 1978; Kenya, 1965; Morocco, 1970; Senegal, 1973; Tunisia, 1967 as well as annex VII to the Convention concerning the African Intellectual Property Organization.

17. It was the opinion of a series of committees of governmental experts on the intellectual property aspects of folklore, brought together by UNESCO and WIPO, that international and national arrangements were largely ineffective and that some model provisions for national laws were necessary. In 1982, WIPO adopted the Model Provisions for National Laws on the Protection of Expressions of Folklore against Illicit Exploitation and other Prejudicial Actions. Article 2 of the Model Provisions defines expressions of folklore as "productions consisting of characteristic elements of the traditional artistic heritage developed and maintained by a community in the country or by individuals reflecting the traditional artistic expectations of such a community". The provisions, if adopted as national law, protect folklore from "illicit exploitation and other prejudicial actions".

18. The Paris Convention for the Protection of Industrial Property provides protection for trademarks. It may be that motifs of indigenous peoples, especially those identifying particular groups, and even indigenous place names could be considered in this light. The Convention also contains a provision to prohibit unfair competition (art. 10 bis) which includes "all acts of such a nature as to create confusion by any means whatever with the establishment, the goods, or the industrial or commercial activities, of a competitor" and "indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods". The provision may be appropriate for the prevention of copies of certain craft products.

19. Finally, mention can be made of the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, concluded in 1958 and revised in 1967 and amended in 1979. The Agreement provides for the protection of the "geographical name of a country, region, or locality, which serves to designate a product originating therein, the quality and characteristics of which are due exclusively or essentially to the geographical environment, including natural and human factors" (art. 2). Appellations of origin - used to protect such familiar products as champagne or cognac - may be a means of protecting the distinctive products of indigenous peoples. As of 1 January 1992, only 16 States were party to the Agreement.

B. Biodiversity and indigenous knowledge

20. Indigenous peoples living in biologically diverse regions of the world possess a knowledge of potentially high economic value. They cultivate a wide variety of plants, many unknown and unused outside their community. In some parts of Amazonia, for example, while modern development exploits a mere 2 per cent of plant species and destroys the remaining 98 per cent, indigenous peoples have a use for nearly every existing species. Indigenous peoples have a profound knowledge of flora, fauna and animal life. They have also developed socially and ecologically viable strategies of natural resource use and management. Indigenous peoples may not see their knowledge of the natural world as a matter for economic evaluation, but the outside world pressing in upon them does. The extraordinary rich plant life of tropical forests in particular constitutes an untapped reserve of new medicines, dyes, insecticides and other natural products. Crop germplasms taken from traditional farmers may produce plant varieties of high commercial interest. Indigenous knowledge could also provide important directions for natural resource use and conservation, a major environmental challenge facing humanity. Indigenous people are thus becoming increasingly concerned about what they regard as the unauthorized use and abuse of their knowledge.

21. Existing international agreements on intellectual property appear largely inadequate to meet the concerns of indigenous people for protection of their traditional knowledge. As in the case of folklore, traditional knowldge is communal and transcends generations. A principal feature of patentability is that the the product or process should be new. The process must also be described in a way which makes it capable of reproduction.

21. None the less, certain international agreements may be relevant. The International Convention for the Protection of New Varieties of Plants (1961), for example, offers protection to the breeder of a new plant variety or to his successor in title. Under the Convention, authorization is required for purposes of commercial marketing. The right conferred on the breeder for a new plant variety or his successor is granted for a limited period, usually not less than 15 years. It may be possible, under the agreement, for indigenous peoples to register a plant which is traditionally grown as a new variety.

23. The Geneva Treaty on the International Recording of Scientific Discoveries (1978) defines scientific discovery as:

> "(i) the recognition of phenomena, properties or laws of the material universe not hitherto recognized and capable of verification;
> (ii) 'discoverer' means the natural person who has made a scientific discovery himself, through observation, study, experimentation or reasoning and in a manner decisive for arriving at the recognition thereof; where, in the making of a scientific discovery, several natural persons have jointly fulfilled the said requirements, any reference to a discoverer shall be construed as a reference to all of them."

The traditional knowledge that indigenous peoples have about the environment may be eligible as scientific discovery and thereby recorded.

24. It may also be possible to consider indigenous knowledge about ecosystems as a proprietary asset in the form of "know-how" or "trade secrets". Thus, the existence of a specific plant developed by indigenous people may be known but the way in which it is reproduced may not. In such cases know-how may be given contractual protection. However, indigenous peoples themselves must be in a position to withhold their knowledge until they negotiate satisfactory agreements on protection and remuneration.

25. Finally, reference can be made to the potential impact on indigenous peoples of developments in biotechnology. Biotechnology uses living organisms to make or modify a product or improve specific characteristics of plants or animals for commercial ends. It is now possible, through genetic engineering, to regenerate a whole plant from one of its cells or to fuse plants of different species to create a new entity. The Consultative Group on International Agricultural Research (CGIAR) and the Food and Agriculture Organization of the United Nations (FAO) have established the International Bureau for Plant Genetic Resources to conserve and research genetic resources. At the present time, there are 127 base collections of genetic material, of which only 17 are in the hands of the developing countries. 5/ There is now growing interest, particularly in the developed countries, in patenting modified life forms and preventing others from commercially exploiting them. Indigenous people, even though the cultivators of a wide variety of plants with distinctive chracteristics, may be the last to benefit from developments in biotechnology. It is possible that researchers identify commercially valuable plants on the territory and with the help of indigenous peoples, isolate the genetic material which gives the plant its special characteristics, patent and sell it.

IV. CONCLUDING COMMENTS

26. The protection of the intellectual property rights of indigenous peoples is complex and largely unresearched. Indigenous peoples are themselves not always aware that their cultural manifestations such as folklore or artistic products or knowledge about nature require protection to prevent their unjustified exploitation and abuse by outsiders. A greater understanding of the concerns of indigenous peoples on this issue may be needed before determining the specific legal remedies which might be appropriate,

27. Existing international agreements do not specifically address indigenous concerns. As suggested in resolutions 1990/59 and 1991/31 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, WIPO may be able to advise whether the interests of indigenous peoples can be protected by the Berne Convention (Paris Act), the Paris Convention (industrial property), the Geneva Treaty (scientific discoveries), the Budapest Treaty (microorganisms), the Madrid Agreement (trademarks), the Lisbon Agreement (appellations of origin), The Hague Agreement (industrial designs), the Model Provisions on folklore and other agreements. Other United Nations organizations, including UNESCO and FAO, may also have some comments to make on the matter.

28. If existing agreements do not protect the intellectual property rights of indigenous people, they may merit review and amendment. It may also be necessary to consider whether specific protection should be developed for indigenous peoples. In view of the fact that 1993 is the International Year for the World's Indigenous People, the appropriate United Nations organizations may wish to organize a working group of governmental and indigenous experts on the intellectual property of indigenous peoples in order to recommend future action.

29. The Special Rapporteur on the study of the cultural property of indigenous peoples, Ms. Erica-Irene Daes, may also wish to consider whether protection of folklore and other cultural products is a proper subject of her research. The Working Group on Indigenous Populations may also wish to take up the discussion on intellectual property and make recommendations.

30. Indigenous peoples lack the finance and the technical and human resources to enable them to record and register their intellectual property. Intergovernmental and governmental funds could be made available to assist indigenous peoples to carry out research and document their folklore and knowledge of plants.

Notes

1/ World Commission on Environment and Development, Our common future, Oxford University Press, 1987, p. 12.

2/ Gray, Andrew, Between the spice of life and the melting pot: Biodiversity conservation and its impact on indigenous peoples, International Workgroup for Indigenous Affairs (IWGIA), Document 70, 1991.

3/ Posey, Darrell, "Basic research into the topics and issues of intellectual property rights and just compensation for native peoples", project summary, 1990. Using data from the Fundaçao Brasileira de Plantas Medicinais, Brazil, Posey estimates that the annual value of medicines derived from plants discovered by indigenous peoples is US$ 43 billion.

4/ UNESCO and WIPO, "Commentary on the Model Provisions for National Laws on the Protection of Creations of Folklore", prepared by the International Bureau of WIPO (UNESCO/WIPO/WG.1/FOLK/2 Add., December 1979).

5/ Gray, op cit., p. 48.

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Paris Convention for the Protection of Industrial Property: Act of Stockholm (Stockholm, 1967).

International Convention for the Protection of New Varieties of Plants (Paris, 1961).

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Geneva Treaty on the International Recording of Scientific Discoveries (Geneva, 1978).

Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (Budapest, 1977).

Model Provisions for National Laws on the Protection of Expressions of Folklore against Illicit Exploitation and other Prejudicial Actions (UNESCO/WIPO, 1982).

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Posey, Darrell, Indigenous knowledge and development: an ideological bridge to the future, Ciencia e Cultura, 1983, 35 (7), pp. 877-894.

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* The selected bibliography represents the sources used in the preparation of this report and is not comprehensive.

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DISCRIMINATION AGAINST INDIGENOUS PEOPLES

Report of the United Nations Technical Conference on Practical Experience in the Realization of Sustainable and Environmentally Sound Self-Development of Indigenous Peoples

(Santiago, Chile, 18-22 May 1992)

Rapporteur: Mr. Ingmar Egede (Inuit Circumpolar Conference)

GE.92-12569/4614B

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Annex

LIST OF ATTENDANCE 20

I. ORGANIZATION OF THE CONFERENCE

1. At the invitation of the Government of Chile, the Technical Conference on Practical Experience in the Realization of Sustainable and Environmentally Sound Self-development of Indigenous Peoples was held at Santiago, Chile, from 18 to 22 May 1992. The Conference was requested by the Commission on Human Rights in its resolution 1990/62 of 7 March 1990 and endorsed by the Economic and Social Council in its decision 1990/238 of 25 May 1990.

A. Participation

2. Invitations to nominate participants were extended to the Governments of Australia, Bolivia, Brazil, Canada, Colombia, Ecuador, India, Mexico, New Zealand, Nigeria, Philippines, Russian Federation, United States of America and Venezuela. Chile as host country was also invited to send representatives to the Conference.

3. The following indigenous organizations were invited to nominate participants: Greenland Home Rule Government, Inuit Circumpolar Conference (ICC), Comisión Internacional del Congreso General Kuna, World Council of Indigenous Peoples, Coordinadora de las Organizaciones Indígenas de la Cuenca Amazónica (COICA), National Federation of Land Councils, Korongoro Integrated Peoples Oriented to Conservation (KIPOC), Coordenaçao das Organizaçoes Indigenas de Amazonia Brasileira (COIAB), National Federation of Indigenous Peoples of the Philippines (KAMP), Indian Council of Indigenous and Tribal Peoples, Organización Nacional Indígena de Colombia, Confederación Indígena del Oriente y Amazonía Boliviana, Nordic Saami Council, Confederación de Nacionalidades Indígenas del Ecuador (CONAIE).

4. The following resource persons were invited to prepare background papers:

Mr. Walter Fernandes, Indian Social Institute, India;

Mr. Mario Ibarra, Independent Expert, Chile;

Mr. Darrell Posey, Independent Expert, United States of America.

5. Representatives of indigenous peoples' organizations from Chile were also invited to send observers to the Conference.

6. United Nations organs, specialized agencies and intergovernmental and non-governmental organizations having an interest in the subject-matter of the Conference were invited to send representatives.

7. Mr. Miguel Alfonso Martínez, member of the Working Group on Indigenous Populations and Special Rapporteur on the study on treaties, agreements and other constructive arrangements between States and indigenous peoples of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, was invited to participate in the Conference.

8. The attendance list is contained in the annex.

B. Agenda

9. The Conference adopted the following agenda:

1. Opening of the conference.

2. Election of officers.

3. Adoption of the agenda.

4. Traditional practices of sustainable and environmentally sound self-development of indigenous peoples.

5. Practices of indigenous peoples in the conservation of natural resources and rehabilitation of the environment.

6. Ways and means of strengthening sustainable and environmentally sound self-development of indigenous peoples.

7. Adoption of conclusions and recommendations.

C. Documentation

10. The following background papers were prepared for the Conference at the request of the United Nations Centre for Human Rights (see Addendum 1 to this report):

"Practices of indigenous peoples in the conservation of natural resources and rehabilitation of the environment", by Walter Fernandes (HR/STGO/1992/SEM/BP.1).

"Traditional practices of sustainable and environmentally sound self-development of indigenous peoples", by Mario Ibarra (HR/STGO/1992/SEM/BP.2).

"Ways and means of strengthening sustainable and environmentally sound self-development of indigenous peoples" by Darrell Posey (HR/STGO/1992/SEM/BP.3), by Elisabet Sahtouris (HR/STGO/1992/SEM/BP.4) and by the International Labour Office (HR/STGO/1992/SEM/BP.5).

11. The following papers were submitted by participants:

Paper submitted by the National Maori Congress (HR/STGO/1992/SEM/BP.6).

"Congreso Nacional de Pueblos Indígenas de Chile" prepared by the Special Commission for Indigenous Peoples of Chile (HR/STGO/1992/SEM/BP.7).

"National Maori Congress: report on the United Nations Conference on Environment and Development" submitted by New Zealand (HR/STGO/1992/SEM/BP.8).

"Summary report of the international workshop on indigenous knowledge and community-based resource management, Winnipeg, Canada, September 1991" submitted by Education & Communication on Environment & Development (ECO-ED) (HR/STGO/1992/SEM/BP.9).

"Traditional ecological knowledge: a source book" submitted by ECO-ED (HR/STGO/1992/SEM/BP.10).

"Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty in Right of Canada" submitted by Canada (HR/STGO/1992/SEM/BP.11).

"Inuit ecological and environmental knowledge" submitted by the Inuit Circumpolar Conference (HR/STGO/1992/SEM/BP.12).

D. Opening of the Conference and election of officers

12. On 18 May 1992, the Conference was inaugurated in the former National Congress, Santiago. Mr. Daniel Blanchard, Secretary of the Economic Commission for Latin America and the Caribbean (ECLAC), opened the meeting on behalf of the Under-Secretary-General for Human Rights. Mr. Queupuán Huaiquil, on behalf of the indigenous peoples of Chile, and Mr. Enrique Correa Ríos, Minister Secretary-General of the Government, made inaugural addresses and welcomed the participants to Chile (see Addendum 1 to this report). The Conference then reconvened at the headquarters of ECLAC. Interpretation was provided in English, Mapudungu and Spanish.

13. The following officers were elected by acclamation:

Mr. Jose Bengoa (Chile), Chairman;

Mr. Ingmar Egede (Inuit Circumpolar Conference), Rapporteur.

14. The Centre for Human Rights was represented by Mr. Julian Burger, who acted as Secretary of the Conference, Mrs. Elsa Stamatopoulou-Robbins and Ms. Ester Moricz.

II. TRADITIONAL PRACTICES OF SUSTAINABLE AND ENVIRONMENTALLY SOUND SELF-DEVELOPMENT OF INDIGENOUS PEOPLES

15. The item was discussed on 18 and 19 May 1992. Mr. Mario Ibarra, independent expert from Chile, introduced his paper on this item (see Addendum 1) by giving an overview of international action at the level of the United Nations, the International Labour Organisation (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO) regarding the problems encountered by indigenous peoples, especially in the area of development. Starting from the premise that indigenous peoples are entitled to all human rights established under the international human rights instruments and that they are nevertheless subject to discrimination, the United Nations prepared a study on the subject, entitled "Study of the Problem of Discrimination against Indigenous Populations" (E/CN.4/Sub.2/1986/7 and Add.1-4). In 1982 the Working Group on Indigenous Populations was established and indigenous peoples were able to participate directly in its deliberations.

16. Mr. Ibarra stated that, despite the proclamation by the United Nations of principles on development, indigenous peoples were victims of so-called "progress" which often took place without consultation and regardless of indigenous concepts of land and culture. Indigenous lands had been abused, and development often meant assimilation of indigenous peoples by force. Autonomous development and the exercise of freedom were linked, Mr. Ibarra said. Previous models of development had failed and this had led to the concept of human development which did not only take into account progress in terms of GNP, but also examined how development affected people's lives in all their aspects. A number of international documents had since recognized the principle of indigenous peoples' participation in their own development and their rights to protection of their environment and productivity of their lands. In particular, the expert referred to ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, and the draft declaration on the rights of indigenous peoples.

17. Sustainable and environmentally sound development was linked to indigenous peoples' philosophy and practices, Mr. Ibarra stressed, and this philosophy was also enshrined in indigenous myths. Indigenous peoples had a message for the world about their relationship to life and nature. Their concept of development went against and beyond that of individual development: the land was sacred, it was not merchandise to be exploited, but a base of life for all. The land should be preserved for future generations with the same bio-diversity that the previous generations had enjoyed.

18. Participants congratulated Mr. Ibarra for his paper. They also expressed their appreciation to the United Nations for convening the Conference and to the Government of Chile and the Special Commission for Indigenous Peoples for acting as hosts. A number of participants pointed to the need for self-government of indigenous peoples as a basis for protecting the environment. The representative of the Kuna General Congress, stressed the link between autonomy, self-determination and development, on the one hand, and peace and development, on the other. Respect for rights, he stated, meant peace. Indigenous civilization was different from the predominant industrial civilization. Indigenous peoples had not been the subjects but the objects of development which obviously did not constitute progress for them. When indigenous peoples practised their autonomy and controlled their development they drew all means of their livelihood from nature, to which they were closely linked. Indigenous peoples were part of nature, the speaker said, and this was a different concept from that prevailing in the West. Land was being taken away from indigenous peoples and they were losing their culture. Without land, there was no autonomy, no livelihood, and thus problems were created between indigenous peoples and Governments. In order to save the environment, the world today should study indigenous concepts of sustainable and environmentally sound development.

19. Other indigenous representatives underlined the special relationship of indigenous peoples to the land as a space for both economic, and cultural and spiritual activities. Such a relation to the land presupposed respect and non-exploitation combined with rational use. Preserving the land and keeping a sound ecological balance had always been an indigenous tradition. Unfortunately, indigenous peoples were today at the centre of the environmental crisis. In this regard, international solidarity was crucial

and United Nations forums should give momentum to changes. Referring to their national experiences, indigenous representatives underlined the importance of the implementation of international human rights instruments by Governments. The representative of COIAB spoke of the impact of militarization on the lives of indigenous peoples. He said that demarcation of indigenous lands was the only way for the ecosystem to be preserved in his country. Several indigenous participants criticized projects financed by multilateral donors and multinational companies which did not respect indigenous peoples.

20. Referring to the international aspect of the environmental crisis, the representative of Colombia said that there was an ecological debt of the industrialized to the developing world. She also informed the meeting about the international drug traffic, which damaged the environment and brought violence to indigenous communities.

21. Referring to some practical methods of support for indigenous self-development, the representatives of Bolivia and Mexico spoke about special funds in their countries to finance projects proposed and executed by indigenous communities themselves as well as the Fund for the Development of Indigenous Peoples in Latin America and the Caribbean.

22. Several State representatives said that for their Governments sustainable development included the notion of preservation of indigenous cultures. The principles of development elaborated until now by the United Nations, it was stated by the representative of Venezuela, were insufficient as regards indigenous peoples. What should be considered now was self-development of indigenous peoples and this idea was being considered by the Working Group on Indigenous Populations. The representative of Bolivia said that there was indeed an awareness in her country of the importance of indigenous customs and knowledge about nature. The Declaration of the Second Meeting of the Presidents of Amazonian Countries (10-11 February 1992) recognized the value of the traditional practices of sustainable development of indigenous peoples and stated that self-development had to be guaranteed. Preservation of biodiversity was also mentioned as a guiding principle for Governments.

23. Several concrete examples were given of consultation, negotiation and settlement of land claims between Governments and indigenous peoples in Australia, Canada and New Zealand. The representative of Canada spoke of comprehensive negotiations with indigenous peoples going beyond land claims. Agreements encompassed the issue of preservation of culture within a changing society, the protection of the environment and biological productivity. Besides, he said, agreements were not to be seen as static, but as evolving, and indigenous communities should participate in the discussions on an equal footing.

24. Referring to the United Nations Conference on Environment and Development (UNCED), a number of State representatives expressed their support for principle 22 in the draft Rio declaration on environment and development which states that "Indigenous peoples and their communities, and other local communities, have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development".

25. The representative of Mexico pointed out that the destruction of natural resources was also followed by a rapid loss of precious traditional indigenous knowledge with the visible consequences of migration and poverty. The policy of the Mexican Government was to find a harmony between struggling to overcome the poverty of indigenous peoples and paying attention to the environment. Regarding the concept of autonomous development, the representative pointed out that it meant free development, economical development and cultural development.

26. Mr. Alfonso Martínez, member of the Working Group on Indigenous Populations, conveyed the greetings and best wishes of the Chairperson of the Working Group, Ms. Erica-Irene Daes, as well as the rest of the Working Group for the success of the Conference. Existing international human rights applied to indigenous peoples, he said, but had not been elaborated with their participation and therefore omitted some essential elements. The elaboration of norms to protect the rights of indigenous peoples was the task of the Working Group. He pointed out that development needed to be appropriate to indigenous needs and development and the questions of land and resources were central. Indigenous concepts of land ownership were different from the Western concept of property. Mr. Alfonso Martinez added that he believed that development for indigenous peoples could not be separated from the North-South conflict and the current unjust economic order. He stated that the key problem was securing environmentally sound and sustainable self-development for both States and indigenous peoples on the basis of negotiations and agreements on an equal footing. Recognition of the rights of indigenous peoples by the United Nations, and the implementation of those rights, will lead to the sustainable development desired by indigenous peoples and the protection of natural resources in States.

27. The representative of New Zealand enumerated the principles which should underline environmental management. He stated that: (a) environmental management should be based on respect for the spiritual integrity of the environment as the literal embodiment of ancestral beginnings and continuity; (b) environment should be treated as a living system of which people are part and which must be respected; (c) we should adopt intergenerational responsibility to make use of our environment in a responsible manner so as to ensure its capacity to sustain future generations; (d) resources should be used and allocated equitably; (e) traditional knowledge developed through the millennia was pragmatic and practical; (f) the future identity and independence of indigenous peoples would depend on the quality of partnership they were able to achieve nationally and internationally; (g) economic utilization of the environment should not compromise traditional values, the needs of future generations or spiritual integrity; (h) the right of peoples to self-determination should be respected and encouraged; (i) there had to be understanding that the ecological principle of holism was not created by human thought or discovered by science but always formed part of indigenous peoples' perceptions.

28. The same representative offered ideas on which solutions should be based: (a) the right to self-determination; (b) settlement of outstanding land and other grievances; (c) active participation in all matters affecting livelihood; (d) self-management of resources; (e) self-management of the

provision of health services and health promotion; (f) recognition, protection and respect for traditional knowledge; (g) provision and financial resources necessary to achieve effective participation and representation; (h) the right to self-development and restoration of an economic base; (i) access to and participation in education and training.

29. Several indigenous representatives referred to the concept of ecocide which, they said, should be recognized as a term at the international level. The representative of COICA spoke of experiences in indigenous management and autonomous development. Such development responded to the needs of indigenous peoples and not of the market and was geared to preservation for future generations. Autonomous development presupposed: sufficient resources for diverse productive activities, sufficient self-determination, territorial recovery and rehabilitation and Government resources when necessary.

30. Similar views were shared by other indigenous representatives. The representative of the National Federation of Land Councils, Australia, said that no ecologically sound development was possible without culturally and socially sustainable development. He also underlined that development would not be separated from the work of the United Nations in the area of human rights and supported the provision regarding self-development and environment as prepared by the Working Group on Indigenous Populations.

31. Referring to the experience of Greenland, the representative of ICC said that, since the establishment of the home rule Government in 1979, the indigenous peoples had full control of their environmental and economic policies. They had included new technologies in their fishing practices to an extent which had, admittedly, threatened their resources. Thus new environmental regulations were now being prepared in Greenland.

32. Representatives of the Mapuches of Chile, referred to the so-called "celebration" of the 500 years since Cristobal Colón arrived in the Americas. Before his arrival, the indigenous peoples lived in harmony with nature but since the arrival of the colonizers, indigenous lands had been usurped and nature destroyed. Latin American countries, after their independence, excluded indigenous peoples from the political process. Laws were created with the purpose of regulating the so-called "indigenous problem" but, once again, with no participation of the people that would be directly affected by them. In fact, these laws were often instruments of assimilation of indigenous peoples by force. Mapuche representatives also disagreed with the use of the term "indigenous populations" as not conveying the fact that they are a nation with their own territory, language and culture. The appropriate term, the representatives said, was "indigenous peoples" and they proposed that it was necessary that indigenous peoples should participate directly in the different fora of the United Nations. The representatives also called for a stop to monoculture and other environmentally unsound projects on their traditional territories.

33. The representative of Colombia provided information about forestry policy in her country. She explained that the policy was aimed at reducing deforestation and destruction of the ecosystem and the forest's rich biodiversity and improving the living conditions of the local people. A

number of specific programmes had been developed in particular in the most threatened areas. Furthermore, these were plans to make the forest industry more efficient and less harmful to nature trees. Indigenous peoples were involved in the definition, planning and implementation of projects alongside governmental agencies. In particular, reference was made to projects in Sierra Nevada de Santa Marta.

34. Referring to experiences in her country, the representative of Brazil said that sustainable development could not be approached in the same way for all indigenous communities but had to be targeted according to the specificities of these people. In this regard, demarcation of indigenous lands was an important tool for safeguarding the environment and the survival of indigenous peoples.

35. An interpretation of the concept of self-determination was put forward by the independent expert, Mr. Walter Fernandes. He said that the concept was often misunderstood and taken to mean the right of secession. Yet self-determination for indigenous peoples meant the right to manage their economy, their political institutions and their lives, often denied to them in the name of national development. Self-determination, he pointed out, meant returning to indigenous peoples the right over their resources and negotiating with them over the use of those resources. A new type of rational use of national resources had to be accepted, namely a rationality based on equity, renewability and negotiation with indigenous peoples. Mr. Ibarra made some concluding comments.

III. PRACTICES OF INDIGENOUS PEOPLES IN THE CONSERVATION OF NATURAL RESOURCES AND REHABILITATION OF THE ENVIRONMENT

36. The item was discussed on 20 May 1992. Mr. Walter Fernandes, independent expert, introduced his paper on natural resource management traditions (see Addendum 1). According to Mr. Fernandes, the basic problem in environmental discussions, including the Rio Conference, was that they centred around plants and animals and not around people, thus not addressing the main question of control of resources. The other extreme in such discussions was the utopian or romantic idea about nature. The principles of equity, conservation and renewability enshrined in indigenous cultures were being lost. Traditionally for indigenous peoples the environment was a resource, while today through either external or internal colonization the control of resources had gone to the powerful elites. The struggle for the environment was a struggle for control of resources either between countries (North/South), or inside countries, between the powerful elites and the rest of the people in the name of so-called "national development".

37. Mr. Fernandes pointed out that indigenous peoples lived in resource rich areas under two types of economic regimes, namely under the dominant economy which saw the environment as profit-generating raw material and as property and their own informal economy which saw the environment as a renewable resource, and a life-support system to be conserved for posterity. While the system for equitable distribution existed in most traditional societies, what was special about indigenous peoples was community control which ensured

continuity of the tribe and continuity of nature, i.e. there was a symbiotic relation between the two. Quoting Mr. Ghandi's words, **"the world has enough resources for everybody's need but not for everybody's greed"**, Mr. Fernandes underlined that the overwhelming majority of people were deprived of basic needs, because the principle of equity was violated both internationally (North/South) and nationally (by dominant groups).

38. Solutions today presupposd re-establishment of the principles of equity, conservation and renewability. While the market economy was here to stay, the whole question of ownership had to be tackled. Indigenous peoples had to re-establish control over their land so that outsiders had to negotiate with them and seek their collaboration. Finally societies had to deal with overconsumption and seek alternative models of life.

39. Participants thanked Mr. Fernandes for his paper. A number of indigenous representatives pointed out that a fundamental element of their practices of conservation and rehabilitation of the environment was their religion and life philosophy which was pluridimensional, based on community values and sharing. The representative of COIAB said that indigenous peoples disliked the irrationality of the capitalist system and new religions imposed upon them. He stressed that self-support for indigenous peoples meant good management of natural resources according to indigenous ways.

40. Several representatives of States agreed with the principles of preservation and sustainability as a basis of environmental and developmental policy. The representatives of Colombia and the Philippines also placed this in the context of North/South discussions. The representative of Colombia pointed to problems in part of her country arising from the cultivation of poppy by indigenous communities which had changed their traditional way of life.

41. Governmental and indigenous representatives described several national and local experiences in efforts of conservation and rehabilitation. Particular emphasis was placed by indigenous representatives on the need to put to efficient use the technical, professional knowledge of indigenous experts on the environment and to promote research by indigenous peoples. Relevant resources should be given to indigenous peoples themselves, not to external environmental non-governmental organizations. It was also pointed out that traditional techniques were at times combined with modern ones. Indigenous peoples, it was underlined, were capable of managing their own resources in terms of knowledge and political institutions; access to their land was obviously a precondition. Self-determination according to many indigenous representatives included the notion of autonomous management of their resources. They also called on international forums, including the Conference, to turn words into action since the problem was now urgent: it was a matter of survival.

42. The representative of Canada described the process of comprehensive claims negotiations carried out with indigenous communities and pointed out that implementation of proposed and agreed upon changes was indeed a great challenge. The representative of the Philippines referred to the difficulties in her country of implementing positive legislation regarding preservation of

indigenous lands. She also stressed that it was very important for indigenous peoples to exchange professional technical expertise and suggested that this could be done in the context of technical cooperation among developing countries.

43. Ms. Elisabet Sahtouris, independent expert, draw attention to several points in the background paper of Darrell Addison Posey (see Addendum 1) based on his experiences with the Kayapo of Brazil. Ms. Sahtouris underlined the importance of polyculture in land management, especially in forests. Research had shown that ecosystems had been arranged over time by indigenous peoples and this had contributed to the richness of the rain forest. She called for more ethnoresearch and participation of indigenous peoples at all levels. She also pointed to the need for alternative markets.

44. Based on the efforts of the Australian Government over the last 25 years, the representative of that country described the difficulties encountered by several aboriginal communities despite the return of their land. That land was often quite depleted and, besides, the aboriginal communities wanted to benefit also from modern technology, health care, etc. and had often been obliged to follow the capitalist economy in order to survive. The representative of Bolivia also described difficulties faced by indigenous peoples despite positive measures by the Government.

45. The representative of the Canadian Committee of UNESCO and of ECO-ED, Canada, summarized activities of his organization in researching traditional ecological knowledge (TEK) and community-based resource management, leading up to an international workshop on indigenous peoples and specialists in Winnipeg, Canada, in September 1991. Participants there agreed that there were two knowledge systems for managing natural resources and the environment: knowledge systems of indigenous peoples and those based on Western science, and that when used in an appropriate and complementary fashion they could provide a powerful tool in the promotion of sustainable development at the community level. On the basis of the recommendations of the workshop, an extensive consultation around the World with indigenous peoples and many of the concerned agencies and organizations, UNESCO (Canada) had advanced a proposal for the creation of an international programme on TEK, under the leadership of a prominent native Canadian. The programme would serve as a catalyst in promoting and advancing the recognition and understanding of traditional knowledge, and those that hold it, and promote its use in the policy and decision-making process. Its primary role would be as a coordinator and facilitator, in partnership with all of those concerned. Key elements of the programme, which had been recognized under the World Decade for Cultural Development of UNESCO, were communications, education and training, research, and institutional and legal considerations. Community participation will be ensured through the establishment of sustainable development round tables being set up in countries around the world by ECO-ED under its outreach programme, ECO-LINK. The programme would provide for the sharing of experience, and the exchange of experts. Mr. Inglis extended an invitation to all delegates to participate in the ECO-ED Congress to be held in Toronto from 15-21 October 1992. A large indigenous peoples gathering would be held on 15 and 16 October on the subject of traditional knowledge, and would provide a major opportunity to develop and implement the programme.

46. The representatives of the Guarani People's Assembly of Bolivia and of KAMP also referred to their national experiences. The latter representative stressed that indigenous peoples should be seen by Governments as peoples with dignity and a capacity to understand and pursue self-determination, not as objects of curiosity and objects of development. Mr. Walter Fernandes made a brief summary of the main points of the discussion.

IV. WAYS AND MEANS OF STRENGTHENING SUSTAINABLE AND ENVIRONMENTALLY SOUND SELF-DEVELOPMENT OF INDIGENOUS PEOPLES

47. The item was discussed on 20 and 21 May 1992. The representative of the International Labour Office (ILO) introduced the background paper produced by the Office (see Addendum 1) referring to progress in international standards on the rights of indigenous peoples. Historically, the construction of the nation-State in Latin America was based on the premise of the gradual integration of indigenous peoples into their respective national societies; in other words, their disappearance as distinct peoples. The long-term objective was to create a culturally integrated and homogeneous national society. More recently this approach had been widely challenged, partly because of its obvious limitations and partly because of the growth of indigenous organizations. As a result, there had been a gradual but substantial change in legislation and in the relationship between States and indigenous peoples at both the national and the international levels. At the national level the speaker mentioned as an outstanding example of a new approach, the 1988 Constitution of Brazil, which had a separate chapter on Indian rights. The new Colombian and Nicaraguan Constitutions included significant provisions on the rights of indigenous peoples. Mexico had recently adopted a constitutional amendment, the Chilean Congress was also studying a similar amendment, and other countries, including Chile, were considering new legislation.

48. At the international level, new principles have been adopted with respect to the fundamental rights of indigenous peoples. The ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries was a legal instrument based on the principle of the enduring nature of indigenous and tribal peoples and established a series of procedures and conditions for them to be able to enjoy the benefits of development while ensuring that their diversity was respected and protected. The representative placed special emphasis on the following aspects of the Convention: (a) The Convention referred to "peoples" rather than "populations" recognizing that indigenous peoples had their own identity, dignity and social organization; (b) there was a provision that indigenous peoples had a right to decide their own development priorities, to control their own institutions and to participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly; (c) the provisions on land were particularly important as they included the concept of territories, which covered the total environment of the areas in which the peoples concerned lived. Governments should recognize the rights of ownership, use and possession of the peoples concerned over the lands which they had traditionally occupied.

49. The representative of ILO also referred to other ILO activities, among which was the support for the enhancement of the technical and organizational capability of the competent national authorities to formulate and implement measures and programmes for the use, sustained management and control of indigenous territories in close consultation with and with the participation of the peoples concerned, as well as to resolve land disputes between indigenous and non-indigenous peoples fairly and efficiently. An important example of this was the creation of the Fund for the Development of Indigenous Peoples in Latin America and the Caribbean by the Ibero-American Heads of State and regional programme for Amazonian communities in Bolivia, Brazil, Colombia and Venezuela of the International Fund for Agricultural Development.

50. Some of the recommendations proposed by the expert were: harmonization of national laws and regulations to respect the legal status of indigenous peoples; promotion of legislation guaranteeing the exercise of indigenous rights; formulation and implementation of environmental protection and conservation policies that recognized and made use of the know-how and traditional practices of indigenous peoples; and study, with the participation of the indigenous peoples, of their models and systems for the use and management of ecologically fragile areas.

51. Some indigenous representatives expressed concern over the fact that Governments in their countries had not ratified the ILO Convention No. 169. The representative of the Kuna General Congress stressed that one major disadvantage of the ILO Convention was that, while recognizing the rights of indigenous peoples to land as a living space, it did not recognize their right to the resources. Thus the right to allow mining by companies or build hydroelectric plants on indigenous lands lay with the Government. In this regard, the representative of CONAIE stressed the need for indigenous peoples to have a legal framework for the use and occupation of their land. The representative of New Zealand agreed that indeed a legal framework was necessary for resource allocation or reallocation to indigenous peoples and their sustainable self-development.

52. Ms. Elisabet Sahtouris also introduced her paper under this item (see Addendum 1). She said that there was now a clear awareness that industrial society, for all its achievements, was directly and indirectly destroying indigenous cultures, non-human species, soil, air and water at a rate which made the extinction of our species a serious and imminent threat. At the same time, we knew that indigenous cultures had an overall record of sustainable lifestyles based on an experienced understanding of living systems, a sacred relationship with all nature, and economics based on balanced sharing, not imbalanced greed. To rebalance and make viable the whole human society, a true partnership of indigenous values and knowledge with appropriate technology was essential. The United Nations was the most appropriate international body to foster this partnership in concrete ways.

53. Ms. Sahtouris' recommendations were the following: (a) the United Nations should sponsor an education campaign designed to build respect for indigenous and traditional peoples and which would support them in telling their own histories and world views; (b) the United Nations should set up a world council of indigenous elders to advise world political, financial and

religious leaders; (c) the United Nations should begin inviting indigenous elders, even before formal recognition of their nations, to address the General Assembly on critical world issues; (d) the United Nations should support indigenous peoples lest the very basis for their existence be denied them further; (e) the United Nations should revise its policy of not recognizing indigenous nations existing within the borders of Member States though the latter have never legitimately acquired title to the aboriginal lands; (f) conflicts between indigenous peoples and States, whether over their intellectual property, land disputes or other issues, should not take place within the legal structure of one disputing party's culture, i.e. the State, but in some compromise structure, preferably the United Nations; (g) ethnobiological research should be supported by the United Nations; (h) appropriate technology should be made available to indigenous peoples upon consultation with them; (i) United Nations meetings on indigenous peoples' issues should be held also in traditional settings.

54. Participants thanked Ms. Sahtouris for her presentation. Several indigenous representatives reiterated their holistic concept of land and nature. The need for land and resources was inseparable from the recognition of their cultural religious views, they pointed out. They called on the United Nations to host meetings on indigenous peoples' issues also in forums culturally closer to the indigenous cultures. Such United Nations meetings should call on the research of indigenous and not external experts. The suggestion was put forward to encourage special quotas for indigenous peoples in higher education so as to help them overcome their long-standing disadvantage in this area. Participants called for safeguards so that the traditional knowledge system of indigenous peoples, often stolen and patented by market forces, be protected. Based on their own experiences, indigenous representatives underlined that pressure at the national level for full indigenous participation in the political process can indeed be effective. A strong recommendation was made for the creation of a reconciliation mechanism under the auspices of the United Nations when solutions could not be found at the national level.

55. The representative of UNESCO underlined the importance of an education of the whole society for sustainable development. If education continued its actual deterioration, no sustainable development would be possible. She said that modern societies had to use traditional knowledge in their scientific and technical advances. This would be the only way to respond to the needs of people and of the environment. In this respect, local empowerment was fundamental and UNESCO had a programme to facilitate international cooperation for scientific empowerment.

56. The representative of the Food and Agriculture Organization of the United Nations (FAO) referred to the different activities FAO had been organizing lately related to environment and sustainable development. Of special interest was the 21st Regional Conference on Rural Sustainable Development in Latin America and the Caribbean and the meeting of the Ministers of Agriculture of the region. The latter meeting adopted the "Declaration of Santiago" which contained aspects related to poverty, environment, conservation and management, natural resources and international commerce.

57. The representative of the Philippines made concrete suggestions on ways to involve the United Nations system in emerging international debates: (a) the institutional mechanism expected to come out of UNCED in the form of a commission on sustainable development of the General Assembly should ensure the agenda and representation in these forums of the concerns of indigenous populations. Representatives of indigenous peoples could in that context also address the General Assembly; (b) the United Nations agencies could implement Agenda 21 of UNCED in a number of ways: (i) actual integration into national and regional programmes of projects that are relevant to indigenous groups, (ii) issues of interest to indigenous populations could be included on the agenda of the governing councils of agencies, such as the United Nations Development Programme (UNDP), under the item on environment and other items, (iii) the revitalized Economic and Social Council (ECOSOC) could include concerns of indigenous populations in its agenda; (c) the international financial mechanisms would play a very important role and funding should be assured for projects regarding indigenous populations; (d) regarding intellectual property rights of indigenous populations, attention should be given to the negotiations of the General Agreement on Tariffs and Trade, and environmental concerns should not be transformed into another trade barrier.

58. The representative of the World Bank explained that the policies and procedures of his organization were decided through operational directives issued to its staff. Two of those directives were especially related to the items discussed in the Conference, namely directives on "environmental assessment" and "indigenous peoples". The environmental directives established that large-scale investments to be approved by the Bank required studies of their environmental aspects. There should be investigations in order to evaluate alternatives, identify costs - including those that could not be quantified - and ensure environmental management plans. These studies also focused on the social impact associated with a particular investment programme and public participation was required throughout the environmental assessment. The directives on indigenous peoples started from the premise that these groups were more likely to be harmed by development projects. Experience taught that indigenous peoples were especially vulnerable due to discrimination, marginalization, inadequate legal frameworks and above all, lack of safe access to natural resources upon which they depended. Due to the heterogeneity of indigenous communities and the situations and problems they faced, the World Bank was conscious that the same solution could not be applied to all cases. Development decisions should be left to indigenous peoples themselves. This meant that they should participate in the formulation, design and implementation of the programmes that affected them. An "indigenous peoples' development plan" was required for all projects that directly affected them.

59. The practical experience of the Bank in implementing these policies showed that the participation of indigenous peoples cost money. The Bank's position was that the project should pay this cost. On the other hand, many borrower countries did not have mechanisms for participation or existing ones were very weak. In this regard project preparation facilities were required and it was necessary, therefore, to finance participation, technical assistance, design studies, etc. Another problem that had been detected was

that the organizational capacity at the local community level may be weak. What was needed here was technical assistance, legal services, training and institutional strengthening at the local level.

60. The representative concluded by saying that the World Bank was ready to finance the capital, administrative and financial costs of indigenous development plans, but lacked any mechanism to directly support the identification, formulation and design of such plans. It was necessary to create new methods and measures that would facilitate direct local level community participation in the local process.

61. The representative of Brazil explained the approach of the governmental agency for the protection of the Indians, FUNAI, which was based on an ethnic and environmental diagnosis. However, the lack of funds was a major problem for FUNAI. The representative of New Zealand supported the idea of holding meetings such as this Conference in traditional environments of indigenous peoples. He also supported the establishment of an international authority for conflict resolution in cases where national mechanisms did not work. Ms. Sahtouris made concluding remarks.

62. The representative of KIPOC provided information about his organization. He explained that KIPOC represented pastoralist peoples in various States in Africa. He also described the problems faced by the Masai people in Korongoro national park. Masai people had lived in the region for centuries without depleting the wildlife stocks. However, with the creation of the national parks, the Masai had been expelled as if they were a threat to the environment. The parks were now being exploited by tourist companies. The Masai and other pastoralist peoples were now demanding participation in the administration of their lands.

63. At the end of the Conference, the representative of the Centre for Human Rights expressed his thanks to the Government of Chile and to the Special Commission on Indigenous Peoples for all their work. He paid tribute to the assistance provided by the Economic Commission on Latin America and the Caribbean. There had been a fruitful exchange of views and the debate had been held in a good atmosphere, he said. The representative thanked the Chairman and Rapporteur and, in particular, believed they contributed to the friendly working environment which had prevailed throughout. In conclusion, he expressed appreciation to the many indigenous people from Chile who had contributed to the Conference. The Chairman in his closing remarks thanked all participants and observers and stressed the importance of the conclusions of the Conference which he hoped would contribute to a better understanding of indigenous peoples and the environment.

V. CONCLUSIONS AND RECOMMENDATIONS

64. At its 9th meeting, held on 22 May 1992, the Technical Conference considered and adopted the following conclusions and recommendations:

THE SANTIAGO CONCLUSIONS AND RECOMMENDATIONS ON INDIGENOUS PEOPLES AND THE ENVIRONMENT

The United Nations Technical Conference on Indigenous Peoples and the Environment, meeting in Santiago, Chile, from 18 to 22 May 1992, recognizes that the sustainable and environmentally sound development of indigenous peoples, in accordance with their practices, is essential for their survival and well-being as peoples and for the sustainability of the ecological systems on which they depend. Ultimately, this will contribute to the healthy survival of the ecological systems of the world.

These goals cannot be achieved without the realization of the rights of indigenous peoples which include the restoration and provision of land and other resources as well as the rights to use and develop those resources as they determine. Recognition and implementation of the rights of indigenous peoples is also a means of redressing injustices, including the dispossession of lands and other resources, and of enabling indigenous peoples to live with greater self-sufficiency and dignity.

Traditionally, indigenous peoples lived in sustainable and harmonious relationships with their lands and environment. They possessed a deep knowledge, understanding and management experience of the ecological systems on which they depended. The ability of indigenous peoples to apply and develop this knowledge to their lands, and to share this knowledge with others, is vital for overcoming environmental degradation throughout the world. It is also an important factor in the achievement of equitable and sustainable living conditions for all the peoples of the world.

The following are the working principles that emerged from the Technical Conference. It is considered that they incorporate many of the concerns and practical experiences of indigenous peoples in the realization of sustainable and environmentally sound self-development that were expressed by those who attended the Conference. These working principles may not necessarily reflect the views of Governments. These principles are:

I

1. The importance of recognizing and providing for the enduring and permanent existence of indigenous peoples and their rights.

2. Recognition and respect for the integrity of the environment as a living system essential to the survival of all humankind.

3. Recognition, protection and respect for indigenous knowledge and practices that are essential contributions to the sustainable management of the environment.

4. The need for the restoration, provision and rehabilitation of resources (including lands and territories) to indigenous peoples and the right to use and develop those resources as they so determine.

5. The right of indigenous peoples to determine their own development and control their own institutions.

6. The equality of participation between indigenous peoples and Governments in negotiations on matters affecting indigenous rights.

7. The maintenance and development of indigenous languages and cultures.

8. The above working principles should be recognized within a mutually acceptable legal framework.

In accordance with these working principles, the Technical Conference proposes the following recommendations:

II

9. That projects of national development which affect indigenous peoples be preceded by studies of their socio-economic and environmental impact, with the direct and effective participation of indigenous peoples, Governments and the agencies promoting development.

10. That the United Nations system, with the consent of indigenous peoples, take measures for the effective protection of property rights (including the intellectual property rights) of indigenous peoples. These include, inter alia, cultural property, genetic resources, biotechnology and biodiversity.

11. That the meetings of agencies within the United Nations system on indigenous peoples always include indigenous representation, provide adequate notice and, when possible, be held on indigenous territories.

12. That the World Bank and other multilateral financial institutions consult with indigenous peoples and develop adequate procedures for the participation of indigenous peoples in the planning, implementation and evaluation of processes of self-development.

13. That the United Nations system, other international bodies and bilateral programmes, with the consent of indigenous peoples, promote research by indigenous experts into indigenous knowledge, practices and technology and disseminate information about the collective nature and close spiritual and material relationship with the land of indigenous peoples and that funds be provided for that purpose.

14. That the environmentally sound management of resources and ecosystems of indigenous peoples be encouraged through the provision of the necessary funds so that an adequate standard of living can be guaranteed.

15. That, where appropriate, Governments provide adequate funding to enable indigenous peoples to participate effectively in negotiations for the restoration, rehabilitation and demarcation of lands, territories and other resources.

16. That mechanisms and resources be developed at the national and international levels to ensure the peaceful resolution of conflicts which may occur between indigenous peoples, States and other sectors of society.

17. That appropriate mechanisms and resources be developed to provide legal and technical assistance to indigenous peoples for the promotion of their rights and sustainable management of the environment.

18. That biosphere reserves and natural parks in indigenous territories be established only with the consent of indigenous peoples and with their active participation, control and management.

19. That intergovernmental and national development organizations with the active participation of indigenous peoples take account and recognize the knowledge, practices and technologies of indigenous peoples when rehabilitating the environment.

20. That the United Nations, international organizations providing financial and technical assistance and States, including their bilateral programmes of cooperation, recruit indigenous people as expert advisers on matters affecting them, particularly in relation to project and programme planning on the environment.

21. That the Centre for Human Rights, in collaboration with indigenous peoples' organizations and other intereseted parties, prepare and disseminate a manual on indigenous peoples' knowledge and experiences in development and conservation of the environment.

22. That intergovernmental, governmental and non-governmental organizations support the exchange among indigenous peoples of technical and cultural experience and knowledge of indigenous peoples on environment and sustainable development.

23. That there is coordination of national legislation dealing with the legal definition of indigenous peoples, their land, customary laws, resources and access to resources and the sustainable management and development thereof.

24. That support be given to the Fund for the Development of Indigenous Peoples in Latin America and the Caribbean, and that consideration be given to the creation of similar funds in Africa, Asia, the Pacific and other regions.

25. That States, which have not yet done so, ratify ILO Convention No. 169.

26. That the International Year for the World's Indigenous People (1993) be considered an opportunity to define and consolidate indigenous peoples' rights and that States and the United Nations system provide funds for development activities.

27. That appropriate mechanisms be developed at the international and national levels to identify, prevent and provide sanctions against environmental degradation.

28. That the contribution and effective participation of indigenous women be taken into account in all issues and activities related to development and the environment which affect indigenous peoples.

29. That the United Nations consider holding further expert meetings on matters of concern to indigenous peoples, in particular, on questions concerning the environment, land, resources and culture.

30. That the Secretary-General give the widest possible distribution to the report, recommendations and background papers of the Technical Conference, including distribution of the report and recommendations to the United Nations Conference on Environment and Development, to the General Assembly at its forty-seventh session, the Commission on Human Rights at its forty-ninth session, the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-fourth session, and the Working Group on Indigenous Populations at its tenth session, and to Governments, competent international, intergovernmental and non-governmental as well as regional organizations and other international forums.

Annex I

LIST OF ATTENDANCE

A. Resource persons

Mr. Walter FERNANDES, Indian Social Institute, India

Mr. Mario IBARRA, Independent Expert, Chile

Ms. Elisabet SAHTOURIS, Independent Expert, United States of America

B. Participants

Ms. Wilma BANZER, Permanent Mission of Bolivia at the United Nations Office in Geneva

Mr. Jose BENGOA, Comisión Especial de Pueblos Indígenas (CEPI), Chile

Mr. Geoff CLARK, National Federation of Land Councils, Australia

Ms. Cristina M. COSTA LEITE, Fundaçao Nacional do Indio (FUNAI), Brazil

Ms. Edelana CUAYO, Philippines Mission at the United Nations Office in New York

Mr. Rodrigo DE LA CRUZ, Confederación de Nacionalidades Indígenas del Ecuador (CONAIE), Ecuador

Mr. Ingmar EGEDE, Inuit Circumpolar Conference (ICC), Greenland

Ms. María Antonieta GALLARD, Instituto Nacional Indigenista, Mexico

Mr. Leif HALONEN, Nordic Saami Council, Norway

Mr. Miguel de LEON, Comisión Internacional del Congreso General Kuna, Panama

Ms. Monica McDONALD, Aboriginal and Torres Strait Islander Commission, Australia

Mr. Fred McFARLAND, Environment and Renewable Resources, Department of Indian Affairs and Northern Development, Canada

Mr. Edtami MANSAYAGAN, National Federation of Indigenous Peoples of the Philippines (KAMP), Philippines

Mr. Wilmer MENDEZ, Permanent Mission of Venezuela at the United Nations Office in Geneva

Mr. Orlando MELGUEIRO DA SILVA, Coordenaçao das Organizaçoes Indigenas de Amazonia Brasileira (COIAB), Brazil

Mr. Diego MOREJÓN PAZMINO, Embassy of Ecuador, Santiago, Chile

Mr. Calixto NUNKUAN IKANAN, Coordinadora de las Organizaciones Indígenas de la Cuenca Amazónica (COICA), Perú

Mr. Alfonso PALMA CAPERA, Organización Nacional Indígena de Colombia (ONIC), Colombia

Mr. Moringe PARKIPUNY, Korongoro Integrated Peoples Oriented to Conservation (KIPOC), Tanzania

Mr. Teimuraz RAMISHVILI, Ministry of Foreign Affairs, Department for International Humanitarian Cooperation and Human Rights, Russian Federation

Ms. Luz Marina RIVERA, Office of Human Rights, Ministerio de Relaciones Exteriores, Colombia

Ms. Elena SAHLIM, Embassy of Sweden, Santiago, Chile

Mr. Maui SOLOMON, National Maori Congress, New Zealand

C. Working Group on Indigenous Populations

Mr. Miguel ALFONSO MARTINEZ

D. Member States represented by observers

CANADA

Mr. Denis MARANTZ, Ministry of Foreign Affairs

E. Representatives of United Nations organizations

Mr. John DURSTON, Economic Commission for Latin America and the Caribbean (ECLAC)

Mr. Leopoldo SANDOVAL, Food and Agriculture Organization of the United Nations (FAO)

United Nations Educational, Scientific and Cultural Organization (UNESCO)

Ms. Christina V. FURSTENBERG, Division of Studies for Development, Sector of Social and Human Sciences

F. Representatives of specialized agencies

Mr. Jorge DANDLER, International Labour Office (ILO)

Mr. William PARTRIDGE, World Bank, Latin America and the Caribbean Technical Department

Ms. Sandra LAND, World Health Organization (WHO)

G. Observers of non-governmental organizations

Mr. Julian INGLIS, Education & Communication on Environment & Development (ECO-ED)

H. Observers of indigenous peoples' organizations

The following organizations of indigenous peoples of Chile were represented by observers:

Name	Organization
Juan Quispe Cruz	Pacha Aru (Arica)
Antonio Mamani	Aymara (Iquique)
Gumercindo Mamani	Fed. Aymar Markas (Iquique)
Juan Alvarez Ticuna	COPRAY (Iquique)
Santa Bárbara Mamani	Jacha Marka Aru
Honorio Ayavire Anza	Pueblos Atacameños
Daboberto Corantes	Pueblos Atacameños
Wenceslao Reyes	Pueblos Atacameños
Alberto Hotus	Consejo de Ancianos de Isla de Pascua
Juan Huenupi	Asociación Raucoche de Arauco
Abraham Santi	Pegün Dungün de Arauco
Domingo Piñaleo P.	Comunidades Pehuenches Alto Bío Bío
Juan Pichinao	Nehuén Mapu
Jorge Huaraleo	Nehuén Mapu
Ponciano Catril	Nehuén Mapu
Juan Queupuán H.	Nehuén Mapu
Walterio Quichapay	Nehuén Mapu de Osorno
José Queupuán	Nehuén Mapu de Osorno
Lucy Traipe	Ad Mapu
Daniel Neculpán	Ad Mapu
José Santos Millao	Ad Mapu
Ramón Toro	Callfulicán
José Millalao	Callfulicán
Camilo Quilamán	Callfulicán
Ramón Chanqueo	Lautaro Ñi Ayllarewe
Gabino Curihuentro	Lautaro Ñi Ayllarewe
José L. Levi	Choiñ Folil Che
Mario Curihuentro	Choiñ Folil Che
Raimundo Nahuel	Folilche Aflaiai
Beatríz Painequeo	Folilche Aflaiai

Name	Organization
Eusebio Reumay	Centros Culturales Mapuche
Cirilo Antinao	A.G. Roble Huacho
Jorge Avendaño	Rehue Lautaro
José Meliñir	Quinquén
Leonardo Cuante	Junta de Caciques de Valdivia
Antonio Alcafuz	Junta de Caciques de Osorno
Efraín Antriao	Junta de Caciques de San Juan de la Costa - Osorno
Carlos Lincomán	Junta de Caciques de Chiloé
Raúl Rupailaf Maichín	Consejo Regional Huilliche
Manuela Llancapán	Consejo Nacional de Pueblos Indígenas (C.N.P.I.)Santiago
Aroldo Cayún Anticura	C.N.P.I. Santiago
José Llancapán	C.N.P.I. Santiago
Juan Carlos Lincopi	C.N.P.I. Santiago
Lorena Lemunguir	C.N.P.I. Santiago
Eliseo Huanca Y.	C.N.P.I. Santiago
José Painequeo	Lelfünche de Santiago
Floriano Cariqueo	Programa Mapuche Urbano (PROMUR)
Alejandro Quiñelén	Programa Mapuche Urbano (PROMUR)
Emilio Cayuqueo	Amulkwun Prof. Mapuche
Daniel Lincocheo	Amulkwun Prof. Mapuche
Aldison Anguita	Lulul Mawida
Janet Paillán	Lulul Mawida
Cristián Huaiquiñir	Lulul Mawida
María Pinda	Consejo Catrihuala